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Attorneys for Defendants,
THE UNLV RESEARCH FOUNDATION,
TOM WILLIAMS and PAUL FERGUSON

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

TARA SWEENEY,

Plaintiff,

vs.

THE UNLV RESEARCH FOUNDATION, a
domestic non-profit corporation; STATE ex
rel THE REGENTS OF THE UNIVERSITY
OF NEVADA LAS VEGAS; SCOTT SMITH,
an individual; TOM WILLIAMS, an
individual; and PAUL FERGUSON, an
individual,

Defendants.

CASE NO.: 2:09-cv-1167-JCM-GWF

**THE UNLV RESEARCH
FOUNDATION'S MOTION TO COMPEL
FURTHER RESPONSES AND
WITHDRAW OBJECTIONS TO
REQUESTS FOR PRODUCTION
UNDER FED.R.CIV.P. 26(b), 26(c)(1),
34, and 37(a)(5)(A); DECLARATION OF
KALEB ANDERSON, ESQ. WITH
EXHIBITS; DECLARATION OF
SHANNON NORDSTROM, ESQ. WITH
EXHIBITS**

Defendant THE UNLV RESEARCH FOUNDATION ("UNLVRF"), by and through its attorneys, LIPSON, NEILSON, COLE, SELTZER & GARIN P.C., hereby moves this Honorable Court for an Order compelling Plaintiff Tara Sweeney to provide further responses to UNLVRF's First Set of Requests for Production of Documents within seven (7) days under FRCP 26(b), 34, and 37(a)(5)(A) on the grounds that Plaintiff failed to timely provide complete responses and refuses to withdraw the objections to her untimely responses. Defendant also moves this Court for an Order requiring Plaintiff and/or her counsel to reimburse it for its fees associated with bringing this motion.

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1 This Motion is based on FRCP 26(b), 26(c)(1), 34, and 37(a)(5)(A), the Points and
2 Authorities attached hereto, the Declaration of Kaleb Anderson, Esq. with exhibits, and the
3 Declaration of Shannon Nordstrom, Esq. with exhibits, together with the pleadings on file
4 herein.

5 Dated this 5th of April, 2010.

6 LIPSON NEILSON COLE SELTZER & GARIN P.C.

7
8 By: 

9 Joseph P. Garin (Bar No. 6653)
10 Shannon D. Nordstrom (Bar No. 8211)
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14 Attorneys for Defendants,
15 THE UNLV RESEARCH FOUNDATION, TOM
16 WILLIAMS & PAUL FERGUSON
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MEMORANDUM OF POINTS AND AUTHORITIES

1. Factual Background

Plaintiff worked for UNLVRF beginning August 1, 2004, with the Institute for Security Studies ("ISS"). UNLVRF is a non-profit corporation which supports various programs at UNLV, including a Masters Program in Homeland Security.

Due to the impending loss of funding, Plaintiff received written notice on June 30, 2006 that her employment would be terminated. Plaintiff's notice provided her with one year advance notice of her termination. Consistent with the one year advance notice she had been given, Plaintiff's employment terminated on June 30, 2007.

In this case, Plaintiff claims that she was not paid commensurate with similarly situated male employees with the same or similar credentials while at UNLVRF, that she was subjected to gender and sexual harassment while working for UNLVRF, and that her termination was the result of retaliation. Plaintiff claims a myriad of damages, including back pay and lost pay as a result of her employment and termination.

2. Plaintiff Refuses to Comply with Her Discovery Obligations

Despite UNLVRF's attempts to obtain written discovery, Plaintiff refuses to comply with her discovery obligations. Defendant seeks Plaintiff's compliance.

A. Plaintiff's Failure to Remove Untimely Objections

The Federal Rules of Civil Procedure provide for specific avenues of discovery, certain requirements for complying with discovery, and certain penalties for failing to comply with discovery. Specifically, Fed R. Civ. P. 34, subsection (b)(2) provides that request for production of documents must be responded to within thirty (30) days. And, the grounds for objecting to a request to produce must be stated with specificity.¹ Further, the failure to file timely objections constitutes a waiver of all objections.²

¹ Fed R. Civ. Proc. 34(b)(2)(C).

² *Perry v. Golub*, 74 F.R.D. 360 (N.D. Ala. 1976); *Davis v. Romney*, 53 F.R.D. 247 (E.D. Pa. 1971) ("If discovery rules are to have any effect or meaning, the failure to serve such objections within the time prescribed should be considered a waiver of such objections").

1 On December 21, 2009, UNLVRF served Requests for Production of Documents on
2 Plaintiff, by mail. See Exhibit "A" to Declaration of Shannon D. Nordstrom, Esq. This service
3 made the responses due on or before January 25, 2010.

4 On January 6, 2010, John C. Brice from Plaintiff's counsel's office sent
5 correspondence stating that he would likely need an extension on the responses until "early
6 February". See Exhibit "B" to Nordstrom Declaration. Ms. Nordstrom replied on January 10,
7 2010, indicating that an extension might be possible, but it would depend on the contents
8 of Plaintiff's initial disclosures which had not been received at the time [and were untimely
9 at that point]. The January 10th correspondence also requested a proposed extension date
10 from Mr. Brice for the Defendants' consideration in light of the upcoming deposition of
11 Plaintiff. See Exhibit "B" to Nordstrom Declaration. UNLVRF received no further response
12 or communication regarding an extension.

13 The January 25, 2010 deadline for Plaintiff to serve her responses came and passed
14 with no communication from Plaintiff. On February 10, 2010, Defendant's counsel sent a
15 letter to Plaintiff's counsel noting that Plaintiff did not obtain an extension and that since the
16 interrogatory responses were then untimely that all objections were waived. Defendant's
17 counsel further demanded that Plaintiff provide her request for production responses, without
18 objections, no later than February 15, 2010. See Exhibit "C" to Nordstrom Declaration.

19 On February 15, 2010, Defendants counsel finally received Plaintiffs Responses to
20 UNLVRF's First Set of Requests for Production. In addition to not providing all the requested
21 documents, the untimely responses contained the following objections:

22 **REQUEST NO. 5.**

23 All state and Federal Income Tax returns (including all attendant schedule)
and Wage or Income Statements file from 2004 to the time of trial for Plaintiff.

24 **RESPONSE:**

25 OBJECTION: Due to the sensitive and confidential nature of these
26 documents, they will be produced only upon the signing of an appropriate
27 confidentiality and protective order.
28

REQUEST NO. 6.

All W-2 forms and other evidence of earning, compensation or income of any kind, including child support or alimony, from 2004 continuing to the time of trial for Plaintiff.

RESPONSE:

See response to Request No. 5 above.

REQUEST NO. 9.

Any and all DOCUMENTS relating to any administrative action or state or federal claim filed by Plaintiff against Defendant or any of their agents and/or employees, including, but not limited to, claims filed with the Nevada Workers Compensation Bureau, Nevada Equal Rights Commission, Equal Employment Commission and/or the Social Security Administration.

RESPONSE:

OBJECTION: These documents are equally available to the Defendant as they are to the Plaintiff, and are matter of public record. See documents on the attached CD-ROM, made a part hereof by this reference, bearing Bates Numbers SW000405 through SW000445, and SW000472 through SW000476. Plaintiff reserves the right to supplement this response.

REQUEST NO. 18

All e-mail, correspondence or communications of any kind between Plaintiff and any PERSON who ever worked at Defendant THE UNLV RESEARCH FOUNDATION from 2004 to the present.

RESPONSE:

OBJECTION: This information is equally if not more easily available to DEFENDANTS than it is to the Plaintiff, insofar as Defendant maintain the email servers for the accounts in question, and therefore this request is unduly burdensome. Without waiving this objection, see the documents on the attached CD-ROM, made a part hereof by this reference, bearing bates numbers SW000387 through SW000404.

REQUEST NO. 28

All DOCUMENTS YOU submitted to the Nevada Equal Rights Commission and the Equal Employment Center related to the claims in YOUR Complaint, including but not limited to the Intake Questionnaire.

RESPONSE:

OBJECTION: These documents are equally available to the Defendants as they are to the Plaintiff, and are a matter of public record. Without waiving this objection, see response to Request No. 9 above.

See Exhibit "A" to Nordstrom Declaration.

Absent an extension, the law is clear that all objections to the Request for Production have been waived. See Perry at Davis at 362. Accordingly, Defendant requests Plaintiff provide amended responses with no objections.

B. Plaintiff Failed to Seek a Protective Order Pursuant to Fed. R. Civ. P. 26(c)(1) for Requests 5 and 6

Plaintiff's claims in this case put her wages and earnings from 2004 through the present directly at issue. As a result, Defendants must know what Plaintiff earned during and after her employment with UNLVRF. It should also be noted that while these documents bear directly on Plaintiff's claimed damages, this information was not provided with Plaintiff's initial disclosures in this case, although required.

UNLVRF sought information related to Plaintiff's earnings in Requests for Production, Nos. 5 and 6, to which Plaintiff provided the following objection:

REQUEST NO. 5.

All state and Federal Income Tax returns (including all attendant schedule) and Wage or Income Statements file from 2004 to the time of trial for Plaintiff.

RESPONSE:

OBJECTION: Due to the sensitive and confidential nature of these documents, they will be produced only upon the signing of an appropriate confidentiality and protective order.

REQUEST NO. 6.

All W-2 forms and other evidence of earning, compensation or income of any kind, including child support or alimony, from 2004 continuing to the time of trial for Plaintiff.

RESPONSE:

See response to Request No. 5 above.

The Federal Rules clearly impose the burden of seeking the protective order on the party seeking protection, and not the other way around. Fed R. Civ. Proc. 26(c)(1) states in relevant part:

A party . . . from whom discovery is sought may move for a protective order in the court where the action is pending.... The motion must include a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action.

From the above responses, the Court can see that Plaintiff objected and did not provide any documents. If Plaintiff desired a protective order to protect information sought through discovery, the burden fell on Plaintiff to obtain the protective order. Instead of

1 seeking a protective order from UNLVRF for the documents responsive to Request Nos. 5
2 and 6, Plaintiff simply objected and improperly placed the burden on UNLVRF to obtain the
3 documents. Specifically, Plaintiff failed to provide requested tax, wage, and income
4 information, stating that it would only be "produced only upon the signing of an appropriate
5 confidentiality and protective order." See Exhibit "A" to Nordstrom Deposition, Responses
6 Nos. 5 and 6. Yet, despite Plaintiff's statement that a protective order is needed, and over
7 5 weeks since she provided her responses, Plaintiff (1) has not proposed a protective order
8 for UNLVRF's consideration, (2) has not engaged in meet-and-confer efforts regarding these
9 requests, and (3) has made no effort to comply with the requests for which she asserted this
10 untimely objection.

11 Aside from the objection being untimely, Plaintiff took no action other than refusal to
12 protect her information or comply with her discovery obligations. Accordingly, Defendant
13 requests Plaintiff be compelled to provide the information sought in Request for Production
14 of Documents Number 5 and 6.

15 **3. Defendant's Meet-and-Confer Efforts Were Met with Sheer Refusal**

16 In addition to the meet-and-confer efforts indicated above, including the February 10,
17 letter, on March 12, 2010, Defendant's counsel sent another letter to Plaintiff's counsel
18 requesting responses without objections, substantive responses to Requests 5 and 6, and
19 a proposed protective order no later than March 19, 2010. See Exhibit "E" to Declaration of
20 Kaleb Anderson, Esq. Having received no response from Plaintiff's counsel, Defendant's
21 counsel called and spoke with Mr. Brice from Plaintiff's attorney's office on March 19, 2010.
22 Mr. Brice informed counsel that Plaintiff's attorney likely had not yet seen the March 12, 2010
23 letter, and that a response would be made by March 23, 2010. See Anderson Declaration,
24 ¶ 5.

25 On March 23, 2010 Plaintiff's counsel responded with a letter obstinately stating, "I
26 am in receipt of your letter of March 12 regarding the issue of objections to your discovery
27 requests. I found your analysis devoid of legal citation. I disagree with your analysis. I will
28

not withdraw my objections." See Exhibit "F" to Anderson Declaration. Plaintiff did not address the objection, inappropriate responses to the requests for financial information, or propose a protective order. Following the receipt of Plaintiff's March 23, 2010 letter, UNLVRF made one last plea with Plaintiff's counsel regarding the objections and requested information, urging a response prior to March 29, 2010 to avoid the present motion. See Exhibit "G" to Anderson Declaration. To date, Plaintiff provided no response.

4. Plaintiff's Disregard for Her Discovery Obligations and Failure to Meet-and-confer in Good Faith Warrants Reimbursement of Defendant's Attorney's Fees

Despite efforts to obtain Plaintiff's compliance with her discovery obligations, no meaningful discussion or engagement came from Plaintiff. Fed R. Civ. P. 37(a)(5)(A) states that if a discovery motion is granted compelling discovery - or if the requested discovery is provided after the motion to compel is filed:

[T]he court must. . .require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay to the movant's reasonable expenses incurred in making the motion, including attorney's fees. But the court must not order payment if:

- (i) the movant filed the motion before attempting in good faith to obtain the. . .discovery without court action;
- (ii) the opposing party's nondisclosure, responses or objection was substantially justified; or
- (iii) other circumstances make an award of expenses unjust.

UNLVRF's counsel attempted to resolve the instant issues before filing this motion as set forth herein and in the Declarations of Shannon D. Nordstrom and Kaleb D. Anderson. Plaintiff essentially ignored UNLVRF's requests, forcing it to bring this motion. In the present matter, Plaintiff lacks any justification for her refusal to meaningfully meet and confer, or to comply with her discovery obligations in the first instance. It appears Plaintiff's actions serve only to obstruct discovery and to frustrate the progression of this litigation.

As such, UNLVRF requests that the Court award UNLVRF all attorneys fees associated with bringing this motion, including fees for attempting to meet and confer, filing the motion, responding to the opposition if any, and attending any hearing on the matter.

1 Said fees will detailed in the Reply to this motion after Defendant's have a clear picture of
2 the overall time incurred.

3 **5. Conclusion**

4 UNLVRF properly served Requests for Production on Plaintiff, which were met with
5 untimely responses, contained numerous objections, and failed to provide all the requested
6 documents. Plaintiff still has not sent a proposed protective order to UNLVRF for its
7 consideration, having take no steps to protect the information aside from a refusal to
8 produce. Despite UNLVRF's attempts to remedy the situation short of the present motion,
9 Plaintiff failed to meet and confer in good faith.

10 Accordingly, UNLVRF hereby requests that the court grant its motion to compel
11 Plaintiff to respond, without objections, to the Requests for Production attached as Exhibit
12 "A" to the Shannon Declaration, for compliance with Request Nos. 5 and 6, and for
13 reimbursement by Plaintiff and/or her counsel to UNLVRF for its fees associated with
14 bringing this motion.

15 Dated this 5th of April, 2010.

16 LIPSON NEILSON COLE SELTZER & GARIN P.C.

17 By: 

18 Joseph P. Garin (Bar No. 6653)
19 Shannon D. Nordstrom (Bar No. 8211)
20 9580 West Sahara Avenue, Suite 120
21 Las Vegas, Nevada 89117
22 (702) 382-1500
23 Attorneys for Defendants,
24 THE UNLV RESEARCH FOUNDATION, TOM
25 WILLIAMS & PAUL FERGUSON
26
27
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**DECLARATION OF SHANNON D. NORDSTROM, ESQ. IN SUPPORT OF
THE UNLV RESEARCH FOUNDATION'S MOTION TO COMPEL FURTHER
RESPONSES AND WITHDRAW OBJECTIONS TO REQUESTS FOR
PRODUCTION UNDER FED.R.CIV.P. 26(b), 26(c)(1), 34, and 37(a)(5)(A)**

I, Shannon D. Nordstrom, Esq., hereby declare and state as follows:

1. I am an attorney in the law firm Lipson, Neilson, Cole, Seltzer & Garin, P.C., counsel of record for Defendants in this matter. I am in good standing and duly licensed to practice law in Nevada.

2. I know the matters set forth herein of my own personal knowledge. I am competent to testify as to those facts stated herein in a court of law and will so testify if called upon. I make this affidavit in support of UNLV Research Foundations's Motion to Compel Further Responses to and Withdraw Objections to Requests for Production Fed.R.Civ.P. 26(b) and 37(a)(5)(A).

3. On December 21, 2010, UNLVRF propounded Requests for Production of Documents on Plaintiff.

4. On January 6, 2010, John C. Brice from Plaintiff's counsel's office sent an email stating that he would likely need an extension on the responses until "early February." See Exhibit "B."

5. January 10, 2010, I replied to Mr. Brice indicating that an extension might be possible, but it would depend on the contents of Plaintiff's initial disclosures which had not been received [and were untimely] at the time. The January 10th response also requested a proposed extension date for Defendant's consideration. See Exhibit" B."

6. I received no further communications from Plaintiff's counsel regarding an extension and no extension was agreed to or finalized.

7. Plaintiff did not serve her Responses to Requests for Production of Documents on or before January 25, 2010.

8. On February 10, 2010, I sent a letter to Plaintiff's counsel reiterating that no extension had been granted and noting that since the Request for Production of Documents

Responses were untimely that all objections were therefore waived. I also demanded Plaintiff provide the responses, without objections, no later than February 15, 2010. See Exhibit "C."

9. That on February 15, 2010, I received a copy of Plaintiff's Responses to UNLVRF's First Set of Requests for Production of Documents. They contained numerous objections and failed to produce all requested documents. See Exhibit "D."

13. UNLVRF now seeks by way of this Motion to Compel to obtain Plaintiff's responses, without objections, and compliance with Requests 5 and 6.

14. Despite the meet-and-confer efforts of this office, we obtained no resolution to the issues presented in this motion.

Exhibits

15. I attach true and correct copies of the following documents:

Exhibit	Description
A	Defendant The UNLV Research Foundation's First Set of Requests for Production of Documents to Plaintiff dated December 21, 2010.
B	Email from John C. Brice to Shannon Nordstrom dated January 6, 2010 and return email from Shannon Nordstrom to John Brice dated January 10, 2010.
C	February 10, 2010 correspondence from Shannon Nordstrom to Jeffrey Whitehead regarding delinquent discovery responses and waived objections.
D	Plaintiff's Responses to Defendant UNLV Research Foundation's First Set of Requests for Production of Documents to Plaintiff, dated February 12, 2010.

Executed this 5th day of April, 2010, at Las Vegas, Nevada.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct to the best of my knowledge.


SHANNON D. NORDSTROM, ESQ.

**DECLARATION OF KALEB D. ANDERSON, ESQ. IN SUPPORT OF
THE UNLV RESEARCH FOUNDATION'S MOTION TO COMPEL FURTHER
RESPONSES AND WITHDRAW OBJECTIONS TO REQUESTS FOR
PRODUCTION UNDER FED.R.CIV.P. 26(b), 26(c)(1), 34, and 37(a)(5)(A)**

I, Kaleb D. Anderson, Esq., hereby declare and state as follows:

1. I am an attorney in the law firm Lipson, Neilson, Cole, Seltzer, Garin, P.C., counsel of record for Defendants in this matter. I am in good standing, duly licensed to practice law in Nevada.

2. I know the matters set forth herein of my own personal knowledge. I am competent to testify as to those facts stated herein in a court of law and will so testify if called upon. I make this affidavit in support of UNLV RESEARCH Foundations's Motion Compel Further Responses to and Withdraw Objections to Requests for Production Fed.R.Civ.P. 26(b) and 37(a)(5)(A).

3. That on March 12, 2010 I sent a letter to Plaintiff's counsel requesting Responses without objections. Plaintiff was given until March 19, 2010 to provide a response. See Exhibit "E."

4. That on March 19, 2010 no response had been received.

5. That on March 19, 2010 I called Plaintiff's counsel's office and spoke with John Brice. Mr. Brice informed me that he believed that Mr. Whitehead had not yet seen the March 12 letter and stated that he would provide a response to our demand by March 23, 2010.

6. That on March 23, 2010 Plaintiff's counsel sent a letter addressed to declarant stating, "I am in receipt of your letter of March 12 regarding the issue of objections to your discovery requests. I found your analysis devoid of legal citation. I disagree with your analysis. I will not withdraw my objections." See Exhibit "F."

7. That on March 26, 2010 I sent one final letter to Plaintiff's counsel regarding the delinquent discovery requests, urging a response prior to March 29, 2010 to avoid the present motion. See Exhibit "G."

8. To date, Plaintiff has provided no response.

9. UNLVRF now seeks by way of this Motion to Compel complete responses, without objections from Plaintiff to UNLVRF's Interrogatories.

10. The undersigned hereby certifies that, pursuant to Fed. R. Civ. P. 37(a)(1) and LR-26-7(b) I have, in good faith, conferred with Plaintiff's counsel in an attempt to receive responses to this discovery. I received no response and was forced to bring this motion to compel responses to this discovery.

Exhibits

11. I attach true and correct copies of the following documents:

Exhibit	Description
E	March 12, 2010 letter from Kaleb Anderson to Jeffrey Whitehead regarding waived objections.
F	March 23, 2010 letter from Jeffrey Whitehead to Kaleb Anderson regarding disagreement with analysis and refusal to comply.
G	March 26, 2010 letter from Kaleb Anderson to Jeffrey Whitehead regarding compliance or motion to compel.

Executed this 5th day of April, 2010, at Las Vegas, Nevada.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct to the best of my knowledge.

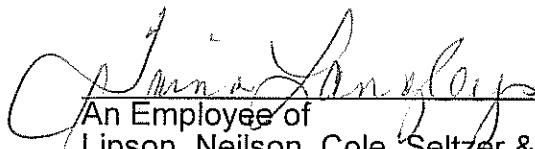

KALEB D. ANDERSON, ESQ.

CERTIFICATE OF SERVICE

I certify that on the 5th day of April, 2010, I served a true and correct copy of THE UNLV RESEARCH FOUNDATION'S MOTION TO COMPEL RESPONSES TO INTERROGATORIES PURSUANT TO FED.R.CIV.P. 26(b) and 37(a)(5)(A) upon the following parties, via first class mail, postage prepaid, addressed as follows:

Jeffrey J. Whitehead, Esq.
WHITEHEAD LAW OFFICES
2431 W. Horizon Ridge Pkwy., Suite 110
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Attorneys for Plaintiff

Susan C. O'Brien, Esq.
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Box 451085
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Attorneys for Defendant,
STATE ex rel THE REGENTS OF THE
UNIVERSITY OF NEVADA LAS VEGAS


An Employee of
Lipson, Neilson, Cole, Seltzer & Garin, P.C.

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EXHIBIT “A”

EXHIBIT “A”

REQT

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Attorneys for Defendants,
THE UNLV RESEARCH FOUNDATION,
SCOTT SMITH, TOM WILLIAMS and
PAUL FERGUSON

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

TARA SWEENEY,

Plaintiff,

vs.

THE UNLV RESEARCH FOUNDATION, a
domestic non-profit corporation; STATE ex
rel THE REGENTS OF THE UNIVERSITY
OF NEVADA LAS VEGAS; SCOTT SMITH,
an individual; TOM WILLIAMS, an
individual; and PAUL FERGUSON, an
individual,

Defendants.

CASE NO.: 2:09-cv-1167-JCM-GWF

**DEFENDANT THE UNLV RESEARCH
FOUNDATION'S FIRST SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO PLAINTIFF TARA
SWEENEY**

Defendant THE UNLV RESEARCH FOUNDATION, by and through its attorneys,
LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C., request that Plaintiff, TARA
SWEENEY, respond within thirty (30) days of the date of receipt hereof, to the following
Requests for Production, Set One, in accordance with Federal Rules of Civil Procedure 34.

INSTRUCTIONS

These instructions are incorporated by reference into each and every request
hereinafter set forth without the necessity of further reference.

///

1 A. The term "**DOCUMENT**" as used in these requests, means and will be liberally
 2 construed to include, without limitation, all originals, copies and duplicates of all tangible
 3 forms of graphic, photographic and phonic recordings, including but not limited to
 4 correspondence, records, reports, memoranda, invoices, contracts, statements, telegrams,
 5 canceled checks, electronic communications, microfilms, photographs, tapes, discs and all
 6 other kinds of written or documentary personal property.

7 B. As used herein, the term "**IDENTIFY**" when referring to a "**PERSON**" means
 8 to set forth the name, address, and phone number.

9 C. "**YOU**" and "**YOUR**" shall mean to include the answering party, and each of the
 10 said party's representatives, and where appropriate, the directors, firm, corporation, trust,
 11 governmental agency or other entities; and also, if relevant, the individual representing such
 12 "**PERSON**".

13 D. If an objection is made as to the production of any requested information,

14 (1) State the specific grounds for not producing the information;

15 (2) Fully identify the information for which the objection is asserted; and

16 (3) If a privilege is alleged, the privilege asserted (e.g., work product,
 17 attorney / client).

18 F. These requests are deemed to continue consistent with FRCP 26(e) so as to
 19 require supplemental responses if you obtain further information between the time your
 20 response is served and the time of trial.

21 REQUESTS FOR PRODUCTION

22 REQUEST FOR PRODUCTION NO. 1:

23 Copies of any and all **DOCUMENTS**, which Plaintiff expects, intends or anticipates
 24 offering into evidence during the trial of this matter.

25 REQUEST FOR PRODUCTION NO. 2:

26 Any and all **DOCUMENTS** which Plaintiff used or referenced to answer any portion
 27 of Defendant's First Set of Interrogatories to Plaintiff.

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1 **REQUEST FOR PRODUCTION NO. 3:**

2 Any and all **DOCUMENTS** identified in Defendant's First Set of Interrogatories to
3 Plaintiff or Plaintiff's Answers thereto.

4 **REQUEST FOR PRODUCTION NO. 4:**

5 All **DOCUMENTS**, including but not limited to, notes, writings, memoranda,
6 correspondence, tape recordings, videotapes, calendars, documentary evidence, or other
7 records of any type reflecting, establishing or documenting any medical treatment, including
8 psychiatric, emotional or psychological treatment or counseling Plaintiff has received from
9 2004 to the present.

10 **REQUEST FOR PRODUCTION NO. 5:**

11 All State and Federal Income Tax returns (including all attendant schedules) and
12 Wage or Income Statements filed from 2004 continuing to the time of trial for Plaintiff.

13 **REQUEST FOR PRODUCTION NO. 6:**

14 All W-2 forms and other evidence of earnings, compensation or income of any kind,
15 including child support or alimony, from 2004 continuing to the time of trial for Plaintiff.

16 **REQUEST FOR PRODUCTION NO. 7:**

17 Any and all other **DOCUMENTS**, which **YOU** in any way rely upon to support **YOUR**
18 claims.

19 **REQUEST FOR PRODUCTION NO. 8:**

20 Any and all tape recordings, video recordings and/or notes authored and/or obtained
21 by Plaintiff that in any way relate to Plaintiff's employment with Defendant THE UNLV
22 RESEARCH FOUNDATION and/or Plaintiff's allegations in her Complaint.

23 **REQUEST FOR PRODUCTION NO. 9:**

24 Any and all **DOCUMENTS** relating to any administrative action or state or federal
25 claim filed by Plaintiff against Defendants or any of their agents and/or employees, including,
26 *but not limited to*, claims filed with the Nevada Workers' Compensation Bureau, Nevada
27 Equal Rights Commission, Equal Employment Opportunity Commission and/or the Social
28 Security Administration.

1 **REQUEST FOR PRODUCTION NO. 10:**

2 A copy of all records, correspondence, memos, evaluations, appraisals or any other
3 **DOCUMENT**, book, pamphlet, writing or communication received by Plaintiff from the
4 Defendants, including all such materials communicated, stored or maintained in the form of
5 electronic media.

6 **REQUEST FOR PRODUCTION NO. 11:**

7 A copy of all records, correspondence, memos or any other **DOCUMENT**, book,
8 pamphlet, writing or communication sent by Plaintiff to anyone at Defendant THE UNLV
9 RESEARCH FOUNDATION including all such materials communicated, stored or maintained
10 in the form of electronic media.

11 **REQUEST FOR PRODUCTION NO. 12:**

12 All notes, writings, memoranda, correspondence, tape recordings, videotapes,
13 calendars, documentary evidence or other records of any type reflecting, establishing or
14 documenting any treatment (inpatient or outpatient) or hospitalization for alcohol or
15 substance abuse received by Plaintiff from 2004 to the present.

16 **REQUEST FOR PRODUCTION NO. 13:**

17 All notes, writings, memoranda, correspondence, tape recordings, videotapes,
18 calendars, documentary evidence, or other records of any type reflecting, establishing or
19 documenting out-of-pocket expenses and the amount of any other damages Plaintiff has
20 allegedly incurred as a result of the acts complained of in her Complaint, including all such
21 materials communicated, stored or maintained in the form of electronic media.

22 **REQUEST FOR PRODUCTION NO. 14:**

23 All notes, writings, memoranda, correspondence, tape recordings, videotapes,
24 calendars, documentary evidence, or other recordings, documenting, memorializing,
25 reflecting or concerning any conversations or communications of any type between Plaintiff
26 and any present or former employee or agent of Defendant THE UNLV RESEARCH
27 FOUNDATION, including all such materials communicated, stored or maintained in the form
28 of electronic media.

REQUEST FOR PRODUCTION NO. 15:

All **DOCUMENTS**, memorandums, e-mails or tape recordings of any conversations with or between any present or former employee, agent or representative of Defendant THE UNLV RESEARCH FOUNDATION.

REQUEST FOR PRODUCTION NO. 16:

All e-mails, tape recordings, statements, diaries, notes, journals, memoranda or other **DOCUMENTS** or records documenting, memorializing, reflecting or concerning any conversations or communications of any type by or between Plaintiff and any **PERSON**, including, but not limited to any present or former employee or agent of Defendant THE UNLV RESEARCH FOUNDATION concerning the events complained of in Plaintiff's Complaint.

REQUEST FOR PRODUCTION NO. 17:

All calendars, journals, diaries, day-planners, or other records of day-to-day activities created or maintained by Plaintiff from 2004 to the present, including, but not limited to, electronic organizers, hand-held computers or other electronic or magnetic means.

REQUEST FOR PRODUCTION NO. 18:

All e-mail, correspondence or communications of any kind between Plaintiff and any **PERSON** who ever worked at Defendant THE UNLV RESEARCH FOUNDATION from 2004 to the present.

REQUEST FOR PRODUCTION NO. 19:

A copy of all **DOCUMENTS**, writings or electronic memorializations, including, but not limited to, applications, resumes, letters, and each and every reply to same, related in any way to positions of any kind Plaintiff applied for or occupied from 2004 to the present, including, but not limited to, any jobs at Defendant THE UNLV RESEARCH FOUNDATION or the University of Nevada Las Vegas.

///

///

///

REQUEST FOR PRODUCTION NO. 20:

A copy of all notes, job ads, and all other writings and **DOCUMENTS** which were made, collected, or received by Plaintiff from any **PERSON** or entity in the course of any search for a job or position that Plaintiff has undertaken from 2004 to the present.

REQUEST FOR PRODUCTION NO. 21:

A copy of all calendars, job ads, day-planners, notes and all other memorializations, **DOCUMENTS** and records which document Plaintiff's efforts, on a daily basis, to find a job outside THE UNLV RESEARCH FOUNDATION, or a different position within Defendant THE UNLV RESEARCH FOUNDATION or UNLV (including contacts with **PERSONS** and/or corporate or other entities) from 2004 to the present, and all responses Plaintiff received from and sent to any **PERSONS** and/or corporate or other entities.

REQUEST FOR PRODUCTION NO. 22:

Copies of all cover letters, completed applications, advertisements for employment or other **DOCUMENTS** evidencing that **YOU** have applied for employment with any company since the time that **YOUR** employment with Defendant THE UNLV RESEARCH FOUNDATION ended.

REQUEST FOR PRODUCTION NO. 23:

All **DOCUMENTS** reflecting, relating to or evidencing in anyway **YOUR** efforts to secure employment other than or in addition to your position at Defendant THE UNLV RESEARCH FOUNDATION from 2004 to the present, including but not limited to job advertisements, job applications, and written communications to and from (a) any state employment service, (b) any personnel employment services, or (c) any prospective employer. This includes, but is not limited to, all resumes sent to any prospective employer, notes, calendars, "logs" or any other "tracking system" maintained to keep a record of when Plaintiff sent out resumes or applied for jobs, any responses or follow-up; all books, articles and other references consulted by Plaintiff in his job search. This request also includes **DOCUMENTS** relating to all responses Plaintiff received from or sent to (a), (b), or (c) above.

///

REQUEST FOR PRODUCTION NO. 24:

A copy of all records, correspondence, memos, or any other **DOCUMENT**, book, pamphlet, writing or communication given or sent by Plaintiff to Defendant THE UNLV RESEARCH FOUNDATION, including all such materials communicated, stored or maintained in the form of electronic media, for the years 2004 to the present. This request includes but is not limited to all statements or complaints made by Plaintiff to any present or former employee, manager or agent of Defendant THE UNLV RESEARCH FOUNDATION concerning any issue arising out of Plaintiff's employment.

REQUEST FOR PRODUCTION NO. 25:

All **DOCUMENTS** supporting **YOUR** claimed damages in this case.

REQUEST FOR PRODUCTION NO. 26:

Any written statements taken from anyone thought to have knowledge of the facts alleged in **YOUR** Complaint.

REQUEST FOR PRODUCTION NO. 27:

All **DOCUMENTS** evidencing any complaint **YOU** made to Defendant THE UNLV RESEARCH FOUNDATION, regarding the circumstances alleged in **YOUR** Complaint.

REQUEST FOR PRODUCTION NO. 28:

All **DOCUMENTS YOU** submitted to the Nevada Equal Rights Commission and the Equal Employment Opportunity Center related to the claims in **YOUR** Complaint, including but not limited to the Intake Questionnaire.

Dated this 21st of December, 2009.

LIPSON NEILSON COLE SELTZER & GARIN P.C.

By: 

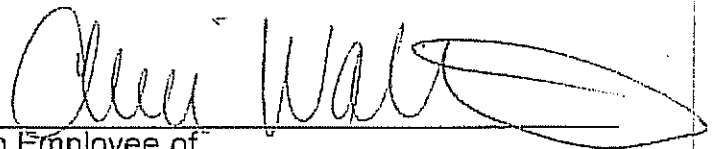
Joseph P. Garin (Bar No. 6653)
Shannon D. Nordstrom (Bar No. 8211)
9580 West Sahara Avenue, Suite 120
Las Vegas, Nevada 89117
(702) 382-1500
Attorneys for Defendants,
THE UNLV RESEARCH FOUNDATION, SCOTT
SMITH, TOM WILLIAMS & PAUL FERGUSON

CERTIFICATE OF SERVICE

I certify that on the 21st day of December, 2009, I served a true and correct copy of
DEFENDANT THE UNLV RESEARCH FOUNDATION'S FIRST SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS TO PLAINTIFF TARA SWEENEY upon the following
parties, via first class mail, postage prepaid, addressed as follows:

Jeffrey J. Whitehead, Esq.
WHITEHEAD LAW OFFICES
2431 W. Horizon Ridge Pkwy., Suite 110
Las Vegas, NV 89052
Attorneys for Plaintiff

Susan C. O'Brien, Esq.
UNLV - General Counsel
Box 451085
4505 Maryland Pkwy
Las Vegas, NV 89154-1085
Attorneys for Defendant,
STATE ex rel THE REGENTS OF THE
UNIVERSITY OF NEVADA LAS VEGAS


An Employee of
Lipson, Neilson, Cole, Seltzer & Garin, P.C.

Lipson, Neilson, Cole, Seltzer & Garin, P.C.
9580 West Sahara Avenue, Suite 120
Las Vegas, Nevada 89117
(702) 382-1500

EXHIBIT “B”

EXHIBIT “B”

SHANNON NORDSTROM

From: SHANNON NORDSTROM
Sent: Sunday, January 10, 2010 12:48 PM
To: 'Jay Brice'
Subject: RE: Sweeney v. UNLV Research Foundation: Discovery Responses

Jay,

We can likely work out an extension, but I will need to see your client's initial document disclosures to determine the amount of time we can allow on the extension. Since they were due Friday, I expect to receive them in the mail on Monday and will take a look at them. Please send me a proposed date for my consideration.

Thank you,
Shannon

Lipson|Neilson
COLE, SELTZER, GARIN, P.C.
ATTORNEYS AT LAW

Shannon Nordstrom, Esq.
Lipson, Neilson, Cole, Seltzer & Garin, P.C.
9580 West Sahara Ave., Suite 120
Las Vegas, NV 89117
(702) 382-1500
(702) 375-6358 (cell)
(702) 382-1512 (fax)
E-Mail: snordstrom@lipsonneilson.com
Website: www.lipsonneilson.com

OFFICES IN NEVADA & MICHIGAN

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From: Jay Brice [<mailto:jay@whiteheadlaw.org>]
Sent: Wednesday, January 06, 2010 2:03 PM
To: SHANNON NORDSTROM
Subject: Sweeney v. UNLV Research Foundation: Discovery Responses

Dear Shannon:

You issued discovery requests which we received on December 22. We are working with our client on preparing responses, however she learned last week that she is moving to Massachusetts, and is even now packing for the move, and will spend next week driving across the country. She has made plans to be available for deposition on the dates we earlier provided, however as she is in the midst of the move even now, she is requesting that we procure an extension on the due date for her responses to the written discovery requests. I think early February would be acceptable. Please advise. Thanks.

Sincerely,

John C. Brice, J.D.
Whitehead Law Offices
2431 W. Horizon Ridge Pkwy., Suite 110
Henderson, NV 89052
PH: (702) 451-7272
FAX: (702) 451-2947

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EXHIBIT “C”

EXHIBIT “C”

LAW OFFICES

JEFFREY T. NEILSON^{1,2,3}
JOSEPH P. GARIN^{1,2,3,5}
PHILLIP E. SELTZER^{1,2}
SHANNON D. NORDSTROM^{1,6}
ANDY L. EDMONDSON¹
JAMES B. FAIRBANKS^{1,9}

1 ADMITTED IN NEVADA
2 ADMITTED IN MICHIGAN
3 ADMITTED IN ILLINOIS
4 ADMITTED IN NEW YORK
5 ADMITTED IN COLORADO
6 ADMITTED IN CALIFORNIA
7 ADMITTED IN FLORIDA
8 ADMITTED IN OHIO
9 ADMITTED IN WASHINGTON

Lipson|Neilson
COLE, SELTZER, GARIN, P.C.
Attorneys and Counselors at Law

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TELEPHONE (702) 382-1500
TELEFAX (702) 382-1512
www.lipsonneilson.com

E-MAIL: snordstrom@lipsonneilson.com

February 10, 2010

BARRY J. LIPSON
(1955-2003)

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THOMAS G. COSTELLO²
DAVID B. DEUTSCH²
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JASON M. SHINN²
MARK E. PHILLIPS²
SANDY D. GLAZIER²
DOUGLAS E. KELIN^{2,3,7}

VIA FACSIMILE & U.S. MAIL

Jeffrey J. Whitehead, Esq.
Whitehead Law Office
2431 W. Horizon Ridge Pkwy., Suite 110
Henderson, NV 89052

**Re: Tara Sweeney v. UNLV Research Foundation, et al.
Case No. 2:09-cv-01167**

Dear Mr. Whitehead:

As you know, the Research Foundation served a set of written Requests for Production and Interrogatories on Plaintiff on December 21, 2010, by email and first-class mail. This service made the responses due on or before January 25, 2010.

On January 6, 2010, Mr. Brice wrote to our office indicating that he would likely need an extension on the responses until "early February". We replied on January 10, 2010, indicating that we could likely work out an extension, but it would depend on the contents of Plaintiff's initial disclosures. We also requested a proposed extension date from Mr. Brice, for consideration. We attach a copy of that correspondence for your convenience. We received no response and the parties did not ultimately agree on an extension.

The failure to timely provide discovery responses results in the waiver of all objections. To date, Plaintiff's responses remain outstanding with no extension granted. Accordingly, please provide Plaintiff's responses, without objections, no later than February 15, 2010, or we will seek intervention of the court through motions to compel. In the event motions to compel become necessary, we will seek the appropriate reimbursement for the time associated with said motions.



Jeffrey J. Whitehead, Esq.
February 10, 2010
Page 2

We look forward to your anticipated cooperation regarding this matter. If you have any questions, please do not hesitate to contact me at your convenience. Thank you.

Very truly yours,

LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.



SHANNON D. NORDSTROM

SDN/cw/GR3384-034
Enclosure

cc: Susan O'Brien, Esq. - via email

SHANNON NORDSTROM

From: SHANNON NORDSTROM
Sent: Sunday, January 10, 2010 12:48 PM
To: 'Jay Brice'
Subject: RE: Sweeney v. UNLV Research Foundation: Discovery Responses

Jay,

We can likely work out an extension, but I will need to see your client's initial document disclosures to determine the amount of time we can allow on the extension. Since they were due Friday, I expect to receive them in the mail on Monday and will take a look at them. Please send me a proposed date for my consideration.

Thank you,
Shannon

Lipson|Neilson
COLE, SELTZER, GARIN, P.C.
ATTORNEYS AT LAW

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E-Mail: snordstrom@lipsonneilson.com
Website: www.lipsonneilson.com

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From: Jay Brice [<mailto:jay@whiteheadlaw.org>]
Sent: Wednesday, January 06, 2010 2:03 PM
To: SHANNON NORDSTROM
Subject: Sweeney v. UNLV Research Foundation: Discovery Responses

Dear Shannon:

You issued discovery requests which we received on December 22. We are working with our client on preparing responses, however she learned last week that she is moving to Massachusetts, and is even now packing for the move, and will spend next week driving across the country. She has made plans to be available for deposition on the dates we earlier provided, however as she is in the midst of the move even now, she is requesting that we procure an extension on the due date for her responses to the written discovery requests. I think early February would be acceptable. Please advise. Thanks.

Sincerely,

John C. Brice, J.D.
Whitehead Law Offices
2431 W. Horizon Ridge Pkwy., Suite 110
Henderson, NV 89052
PH: (702) 451-7272
FAX: (702) 451-2947

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FAX TRANSMISSION

LAW OFFICES

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Attorneys and Counselors at Law

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TELEPHONE (702) 382-1500

TELEFAX (702) 382-1512

www.lipsonneilson.com

E-MAIL: snordstrom@lipsonneilson.com

Date: February 10, 2010

Addressee	Telephone Number	Telefax Number
Jeffrey J. Whitehead, Esq.	(702) 451-7272	(702) 451-2947

NUMBER OF PAGES: 5 (Including this page)

SUBJECT: UNLV Research Foundation, et al., adv. Sweeney

COMMENTS: Please see attached correspondence. Thank you.

LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.

By: SHANNON D. NORDSTROM

Our Client Code: GR3384-034

Postscript: If you do not receive all pages, or if any pages are illegible, please call (702) 382-1500 immediately.

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Job No. : 075545 Total Time : 0°00'55" Page : 005

Completed

Document : doc20100210175013

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Lipson|Neilson

COLE, SELTZER, GARIN, P.C.

*Attorneys and Counselors at Law*9580 WEST SAHARA AVENUE, SUITE 120
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TELEPHONE (702) 382-1500

TELEFAX (702) 382-1512

www.lipsonneilson.com

E-MAIL: snordstrom@lipsonneilson.com

Date: February 10

Addressee	Telephone Number	Telefax Number
Jeffrey J. Whitehead, Esq.	(702) 451-7272	(702) 451-2947

No.	Date and Time	Destination	Times	Type	Result	Resolution / ECM
001	02/10/2010 17:50	4512947	0°00'55"	FAX	OK	200x200 Fine / On

EXHIBIT “D”

EXHIBIT “D”

1 Jeffrey J. Whitehead, Esq.
2 Nevada Bar No. 3183
3 **WHITEHEAD LAW OFFICES**
4 2431 W. Horizon Ridge Pkwy.
5 Suite 110
6 Henderson NV 89052
7 VOX: (702) 451-7272
8 FAX: (702) 451-2947
9 email: jeff@whiteheadlaw.org

Attorneys for Plaintiff Tara Sweeney

10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

12 **TARA SWEENEY,**

13 **Plaintiff,**

14 **vs.**

15 **THE UNLV RESEARCH FOUNDATION,**
16 **a domestic non-profit corporation; THE**
17 **STATE OF NEVADA ex. rel BOARD OF**
18 **REGENTS OF THE NEVADA SYSTEM**
19 **OF HIGHER EDUCATION, ON BEHALF**
20 **OF THE UNIVERSITY OF NEVADA, LAS**
21 **VEGAS; SCOTT SMITH an individual;**
22 **TOM WILLIAMS, an individual; and**
23 **PAUL FERGUSON, an individual;**

24 **Defendants.**

CASE NO.: 2:09-CV-01167

Date of Hearing:
Time of Hearing:

PLAINTIFF'S RESPONSES TO THE
UNLV RESEARCH FOUNDATION'S
FIRST SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS TO
PLAINTIFF TARA SWEENEY

25 **PLAINTIFF'S RESPONSES TO THE UNLV RESEARCH FOUNDATION'S FIRST SET**
26 **OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF TARA**
27 **SWEENEY**

28 PLAINTIFF, TARA SWEENEY, by and through her attorney, Jeffrey J. Whitehead,
Esq., of Whitehead Law Offices, as and for her Responses to the UNLV Research Foundation's
First Set of Requests for Production of Documents to Plaintiff Tara Sweeney, does hereby
respond as follows.

REQUESTS FOR PRODUCTION

REQUEST NO. 1.

Copies of any and all DOCUMENTS, which Plaintiff expects, intends, or anticipates offering into evidence during the trial of this matter.

RESPONSE:

See SWE000001 through SWE000316 (previously provided) and SWE000317 through SWE000476 on the attached CD-ROM, made a part hereof by this reference. In addition, Plaintiff is in possession of certain tax records which, due to the sensitive and confidential nature, will be produced upon the signing of an appropriate protective order.

REQUEST NO. 2.

Any and all DOCUMENTS which Plaintiff used or referenced to answer any portion of the Defendant's First Set of Interrogatories to Plaintiff.

RESPONSE:

See response to Request No. 1 above.

REQUEST NO. 3.

Any and all DOCUMENTS identified in Defendant's First Set of Interrogatories to Plaintiff or Plaintiff's Answers thereto.

RESPONSE:

See Response to Request for Production No. 1, above. Also, SWE000477-SWE000478 on the CD-ROM, attached hereto and made a part hereof by this reference. Plaintiff reserves the right to supplement this response.

REQUEST NO. 4.

All DOCUMENTS, including but not limited to, notes, writings, memoranda, correspondence, tape recordings, videotapes, calendars, documentary evidence, or other records

1 of any type reflecting, establishing or documenting any medical treatment, including
2 psychiatric, emotional or psychological treatment or counseling Plaintiff has received from 2004
3 to the present.

4 **RESPONSE:**

5 Responsive records are unavailable at this time. Plaintiff reserves the right to supplement
6 this response.

7
8 **REQUEST NO. 5.**

9 All State and Federal Income Tax returns (including all attendant schedules) and Wage or
10 Income Statements filed from 2004 continuing to the time of trial for Plaintiff.

11 **RESPONSE:**

12 **OBJECTION:** Due to the sensitive and confidential nature of these documents, they will
13 be produced only upon the signing of an appropriate confidentiality and protective order.

14
15 **REQUEST NO. 6.**

16 All W-2 forms and other evidence of earnings, compensation or income of any kind,
17 including child support or alimony, from 2004 continuing to the time of trial for Plaintiff.

18 **RESPONSE:**

19 See response to Request No. 5 above.

20
21 **REQUEST NO. 7.**

22 Any and all other DOCUMENTS, which YOU in any way rely upon to support YOUR
23 claims.

24 **RESPONSE:**

25 See response to Request No. 1 above.

26
27 **REQUEST NO. 8.**

28 Any and all tape recordings, video recordings and/or notes authored and/or obtained by

1 Plaintiff that in any way relate to Plaintiff's employemnt with Defendant THE UNLV
2 RESEARCH FOUNDATION and /or Plaintiff's allegations in her Complaint.

3 **RESPONSE:**

4 See response to Request No. 1, above.

5
6 **REQUEST NO. 9.**

7 Any and all DOCUMENTS relating to any administrative action or state or federal claim
8 filed by Plaintiff against Defendants or any of their agents and/or employees, including, but not
9 limited to, claims filed with the Nevada Workers Compensation Bureau, Nevada Equal Rights
10 Commission, Equal Employment Opportunity Commission and/or the Social Security
11 Administration.

12 **RESPONSE:**

13 OBJECTION: These documents are equally available to the Defendants as they are to the
14 Plaintiff, and are matters of public record. See documents on the attached CD-ROM, made a
15 part hereof by this reference, bearing Bates Numbers SWE000405 through SWE000445, and
16 SWE000472 through SWE000476. Plaintiff reserves the right to supplement this response.

17
18 **REQUEST NO. 10.**

19 A copy of all records, correspondence, memos, evaluations, appraisals or any other
20 DOCUMENTS, book, pamphlet, writing or communication received by Plaintiff from the
21 Defendants, including all such materials communicated, stored or maintained in the form of
22 electronic media.

23 **RESPONSE:**

24 See SWE000001 through SWE000316 (previously produced), as well as documents on
25 the attached CD-ROM, made a part hereof by this reference, bearing Bates Numbers
26 SWE000387 through SWE000404, and SWE000458 through SWE000471. Plaintiff reserves the
27 right to supplement this response.
28

1 **REQUEST NO. 11.**

2 A copy of all records, correspondence, memos or any other DOCUMENTS, book,
3 pamphlet, writing or communication sent by Plaintiff to any one at Defendant THE UNLV
4 RESEARCH FOUNDATION including all such materials communicated, stored, or maintained
5 in the form of electronic media.

6 **RESPONSE:**

7 See response to Request No. 10, above.
8

9 **REQUEST NO. 12.**

10 All notes, writings, memoranda, correspondence, tape recordings, videotapes, calendars,
11 documentary evidence or other records of any type reflecting, establishing or documenting any
12 treatment (inpatient or outpatient) or hospitalization for alcohol or substance abuse received by
13 Plaintiff from 2004 to the present.

14 **RESPONSE:**

15 No responsive documents exist.
16

17 **REQUEST NO. 13.**

18 All notes, writings, memoranda, correspondence, tape recordings, videotapes, calendars,
19 documentary evidence, or other records of any type reflecting, establishing or documenting out-
20 of-pocket expenses and the amount of any other damages the Plaintiff has allegedly incurred as a
21 result of the acts complained of in her Complaint, including all such materials communicated,
22 stored or maintained in the form of electronic media.

23 **RESPONSE:**

24 Responsive documents are unavailable at this time. Plaintiff reserves the right to
25 supplement this response.
26

27 **REQUEST NO. 14.**

28 All notes, writings, memoranda, correspondence, tape recordings, videotapes, calendars,

1 documentary evidence, or other recordings, documenting, memorializing, reflecting or
2 concerning any conversations or communications of any type between Plaintiff and any present
3 or former employee or agent of Defendant THE UNLV RESEARCH FOUNDATION, including
4 all such materials communciated, stored or maintained in the form of electronic media.

5 **RESPONSE:**

6 See generally SWE000001 through SWE000302 (previously produced), and also see
7 documents on the attached CD-ROM, made a part hereof by this reference, bearing bates
8 numbers SWE000387 through SWE000404. Plaintiff reserves the right to supplement this
9 response.

10
11 **REQUEST NO. 15.**

12 All DOCUMENTS, memorandums, e-mails or tape recordings of any conversations with
13 or between any present or former employee, agent or respresntative of Defendant THE UNLV
14 RESEARCH FOUNDATION.

15 **RESPONSE:**

16 See response to Request No. 14 above. Plaintiff reserves the right to supplement this
17 response.

18
19 **REQUEST NO. 16.**

20 All e-mails, tape recordings, statements, diaries, notes, journals, memoranda or other
21 DOCUMENTS or records documenting, memorializing, reflecting or concerning any
22 conversations or communications of any type or between Plaintiff and any PERSON, including,
23 but not limited to any present or former employee or agent of Defendant THE UNLV
24 RESEARCH FOUNDATION concerning the events complained of in Plaintiff's Complaint.

25 **RESPONSE:**

26 See response to Request No. 15, above. In addition, see documents on the attached CD-
27 ROM, made a part hereof by this reference, bearing bates numbers SWE000405 through
28 SWE000445 as well as SWE000472 through SWE000476. Plaintiff reserves the right to

1 supplement this response.

2
3 **REQUEST NO. 17.**

4 All calendars, journals, diaries, day-planners, or other records of day-to-day activiteis
5 created or authored by Plaintiff from 2004 to the present, including, but not limited to, electronic
6 organizers, hand-held computers or other electronic or magnetic means.

7 **RESPONSE:**

8 See documents on the attached CD-ROM, made a part hereof by this reference, bearing
9 bates numbers SWE000317 through SWE000386, and documents on the attached CD-ROM,
10 made a part hereof by this reference, bearing bates numbers SWE000446 through SWE000457.
11 Plaintiff reserves the right to supplement this response.

12
13 **REQUEST NO. 18.**

14 All e-mail, correspondence or communications of any kind between Plaintiff and any
15 PERSON who ever worked at Defendnat THE UNLV RESEARCH FOUNDATION from 2004
16 to the present.

17 **RESPONSE:**

18 **OBJECTION:** This information is equally if not more easily available to DEFENDANTS
19 than it is to the Plaintiff, insofar as Defendants maintain the email servers for the accounts in
20 question, and therefore this request is unduly burdensome. Without waiving this objection, see
21 the documents on the attached CD-ROM, made a part hereof by this reference, bearing bates
22 numbers SWE000387 through SWE000404.

23
24 **REQUEST NO. 19.**

25 A copy of all DOCUMENTS, writings or electronic memorializations, including, but not
26 limited to, applications, resumes, letters, and each and every reply to the same, reltated in any
27 way to positions of any kind Plaintiff applied for or occupied from 2004 tot he present,
28 including, but not limited to, any jobs at Defendant THE UNLV RESEARCH FOUNDATION

1 or the University of Nevada Las Vegas.

2 **RESPONSE:**

3 Responsive documents, if any exist, are unavailable at this time. Plaintiff reserves the
4 right to supplement this response.

5
6 **REQUEST NO. 20.**

7 A copy of all notes, job ads, and all other writings and DOCUMENTS which were made,
8 collected, or received by Plaintiff from any PERSON or entity in the course of any search for a
9 job or position that Plaintiff has undertaken from 2004 to the present.

10 **RESPONSE:**

11 Responsive documents, if any exist, are unavailable at this time. Plaintiff reserves the
12 right to supplement this response.

13
14 **REQUEST NO. 21.**

15 A copy of all calendars, job ads, day-planners, notes and all other memorializations,
16 DOCUMENTS and records which document Plaintiff's efforts, on a daily basis, to find a job
17 outside THE UNLV RESEARCH FOUNDATION, or a different position within Defendant THE
18 UNLV RESEARCH FOUNDATION or UNLV (including contracts with PERSONS and/or
19 corporate or other entities) from 2004 to the present, and all responses Plaintiff received from
20 and sent to any PERSONS and/or corporate or other entities.

21 **RESPONSE:**

22 Responsive documents, if any exist, are unavailable at this time. Plaintiff reserves the
23 right to supplement this response.

24 **REQUEST NO. 22.**

25 Copies of all cover letters, completed applications, advertisements for employment or
26 other DOCUMENTS evidencing that YOU have applied for employment with any company
27 since the time that YOUR employment with Defendant THE UNLV RESEARCH
28 FOUNDATION ended.

1 **RESPONSE:**

2 Responsive documents, if any exist, are unavailable at this time. Plaintiff reserves the
3 right to supplement this response.

4
5 **REQUEST NO. 23.**

6 All DOCUMENTS reflecting, relating to or evidencing in any way YOUR efforts to
7 secure employment other than or in addition to your position at Defendant THE UNLV
8 RESEARCH FOUNDATION from 2004 to the present, including but not limited to job
9 advertisements, job applications, and written communications to and from (a) any state
10 employment service, (b) any personnel employment services, or (c) any prospective employer.
11 This includes, but is not limited to, all resumes sent to any prospective employer, notes,
12 calendars, "logs" or any other "tracking system" maintained to keep a record of when Plaintiff
13 sent out resumes or applied for jobs, any responses or follow-up; all books, articles and other
14 references consulted by Plaintiff in his job search. This request also includes DOCUMENTS
15 relating to all responses Plaintiff received from or sent to (a), (b), or (c) above.

16 **RESPONSE:**

17 Responsive documents, if any exist, are unavailable at this time. Plaintiff reserves the
18 right to supplement this response.

19
20 **REQUEST NO. 24.**

21 A copy of all records, correspondence, memos, or any other DOCUMENT, book,
22 pamphlet, writing or communication given or sent by Plaintiff to Defendant THE UNLV
23 RESEARCH FOUNDATION, including all such materials communicated, stored or maintained
24 in the form of electronic media, for the years 2004 to the present. This request includes but is
25 not limited to all statements or complaints made by Plaintiff to any present or former employee,
26 manager or agent of Defendant THE UNLV RESEARCH FOUNDATION concerning any issue
27 arising out of Plaintiff's employment.

28 **RESPONSE:**

 See documents bearing Bates Numbers SWE000001 through SWE000236 (previously

1 provided), as well as the documents on the attached CD-ROM, made a part hereof by this
2 reference, bearing bates numbers SWE000387 through SWE000445, and SWE000458 through
3 SWE000476. Plaintiff reserves the right to supplement this response.
4

5 **REQUEST NO. 25.**

6 All DOCUMENTS supporting YOUR claimed damages in this case.

7 **RESPONSE:**

8 See response to Request No. 1, above.
9

10 **REQUEST NO. 26.**

11 Any written statements taken from anyone thought to have knowledge of the facts alleged
12 in YOUR Complaint.

13 **RESPONSE:**

14 No responsive documents are known to exist at this time. Plaintiff reserves the right to
15 supplement this response.
16

17 **REQUEST NO. 27.**

18 All DOCUMENTS evidencing any complaint YOU made to Defendant THE UNLV
19 RESEARCH FOUNDATION, regarding the circumstances alleged in YOUR Complaint.

20 **RESPONSE:**

21 See response to Request No. 24, above.
22

23 **REQUEST NO. 28.**

24 All DOCUMENTS YOU submitted to the Nevada Equal Rights Commission and the
25 Equal Employment Opportunity Center related to the claims in YOUR Complaint, including but
26 not limited to the Intake Questionnaire.

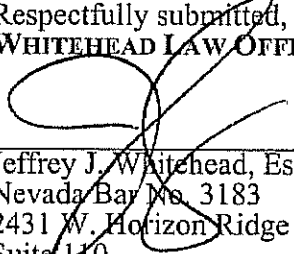
27 **RESPONSE:**

28 **OBJECTION:** These documents are equally available to the Defendants as they are to the
Plaintiff, and are matters of public record. Without waiving this objection, see response to

1 Request No. 9 above.

2
3
4 DATED February 12, 2010.

5 Respectfully submitted,
6 **WHITEHEAD LAW OFFICES**

7 
8 _____
9 Jeffrey J. Whitehead, Esq.
10 Nevada Bar No. 3183
11 2431 W. Horizon Ridge Pkwy.
12 Suite 110
13 Henderson NV 89052
14 VOX: (702) 451-7272
15 FAX: (702) 451-2947
16 email: jeff@whiteheadlaw.org

17 *Attorney for Plaintiff Tara Sweeney*
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

It is hereby certified that the foregoing PLAINTIFF'S RESPONSES TO THE UNLV RESEARCH FOUNDATION'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF TARA SWEENEY was sent February 12, 2010 to the following person(s) by the following method(s):

☒ U.S. Mail, by depositing a true and correct copies of same in the United States Mail, postage prepaid at Henderson, Nevada, to the persons at the addresses listed below:

☒ e-mail, to the email addresses listed below:

☐ by facsimile transmission to the fax numbers listed below:

Shannon D. Nordstrom, Esq.
Lipson, Neilson, Cole Seltzer & Garin, PC
9580 West Sahara Ave., Suite 120
Las Vegas, NV 89117
FAX: (702) 382-1512
Snordstrom@lipsonneilson.com

Susan Carrasco O'Brien
University of Nevada Las Vegas
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Box 451085
4505 S. Maryland Parkway
Las Vegas, NV 89154-1085
FAX: (702) 895-5299
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An Employee of WHITEHEAD LAW OFFICES

EXHIBIT “E”

EXHIBIT “E”

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7 ADMITTED IN FLORIDA
8 ADMITTED IN OHIO
9 ADMITTED IN WASHINGTON

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March 12, 2010

BARRY J. LIPSON
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VIA EMAIL ONLY

Jeffrey J. Whitehead, Esq.
Whitehead Law Office
2431 W. Horizon Ridge Pkwy., Suite 110
Henderson, NV 89052

**Re: Tara Sweeney v. UNLV Research Foundation, et al.
Case No. 2:09-cv-01167**

Dear Mr. Whitehead:

The UNLV Research Foundation served a set of written Requests for Production and Interrogatories on Plaintiff on December 21, 2010, by email and first-class mail. This service made the responses due on or before January 25, 2010. Plaintiff's responses were ultimately served on February 12, 2010. Although there were limited discussions related to an extension, no extension was ever granted.

As you know, the failure to timely provide discovery responses results in the waiver of all objections. That said, Plaintiff's responses to Interrogatories contained no fewer than ten objections and the Requests for Productions contained no fewer than five objections. Other than the objections to Interrogatory 8(e) and 8(f), we request that all objections be withdrawn. It is also noted that you indicate a need for a protective order relating to the Responses to Request for Production 5 and 6 (relating to wage and tax information). Again, as you know, the time to seek a protective order is prior to the date the responses are due.

Please remove the untimely objections in Plaintiff's Responses and provide Defendant with proper substantive responses to Requests for Production 5 and 6 discussed above. Please contact our office by March 19, 2010 to discuss these issues.



Jeffrey J. Whitehead, Esq.
April 5, 2010
Page 2

We trust these issues can be resolved amicably and look forward to discussing them with you in the near future. In the event we do not hear from you and do not receive amended/supplemental responses we will seek assistance from the Court, which will include a request for our attorneys' fees and costs associated with said motion. Thank you.

Very truly yours,

LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.

/s/ Kaleb Anderson
KALEB D. ANDERSON

KDA/vh/GR3384-034
Enclosure

EXHIBIT “F”

EXHIBIT “F”

WHITEHEAD LAW OFFICES

Jeffrey J. Whitehead, Esq.[†]
Jeffrey J. Whitehead, Ltd.
[†]Admitted in NV, AZ and CO.

RECEIVED MAR 25 2010

Tuesday, March 23, 2010

Kaleb Anderson
Lipson Neilson Cole Seltzer & Garin, PC
9580 West Sahara Ave., Suite 120
Las Vegas, NV 89117

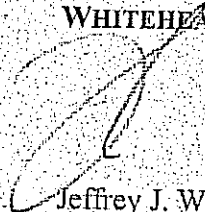
FAX: (702) 382-1512

Re: Sweeney v. UNLV Research Foundation, et al.
Case No. 2:09-cv-01167

Dear Mr. Anderson:

I am in receipt of your letter of March 12 regarding the issue of objections to your discovery requests. I found your analysis devoid of legal citation. I disagree with your analysis. I will not withdraw my objections.

Sincerely,
WHITEHEAD LAW OFFICES



Jeffrey J. Whitehead, Esq.

Attorneys at Law

2431 W. Horizon Ridge Pkwy., Ste. 110 | Henderson, NV 89052 | Telephone: (702) 451-7272 | Facsimile: (702) 451-2947 | www.WhiteheadLaw.org

EXHIBIT “G”

EXHIBIT “G”

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March 26, 2010

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Via Email Only

Jeffrey J. Whitehead, Esq.
Whitehead Law Office
2431 W. Horizon Ridge Pkwy., Suite 110
Henderson, NV 89052

Re: Tara Sweeney v. UNLV Research Foundation, et al.
Case No. 2:09-cv-01167

Dear Mr. Whitehead:

We received your March 23, 2010 letter regarding your untimely objections to our client's discovery requests. As stated in your correspondence, you disagree with our analysis and refuse to withdraw your objections despite providing no legal authority for your position. Please consider this letter as a response.

As you know, the UNLV Research Foundation served a set of written Requests for Production of Documents and Interrogatories on Plaintiff on December 21, 2010 by email and first-class mail. This made the responses due on or before **January 25, 2010**. Although there were limited discussions related to an extension, no extension was ever granted, and your client's unverified responses were ultimately served on February 12, 2010.

At the deposition of Ms. Sweeney on February 23, 2010, Shannon Nordstrom mentioned she did not receive a verification for the interrogatories. FRCP 33(b)(3) states that "[e]ach interrogatory must...be answered separately and fully in writing under oath." See also *Saria v. Massachusetts Mut. Life Ins. Co.*, 228 F.R.D. 536 (S.D.W. Va., 2005)(invalidating unverified interrogatory responses and holding that "[w]hen responses are only signed by an attorney, and not by the client, the attorney has effectively been made a witness."). To date your client has not provided a verification for the interrogatory responses making them equivalent to no response at all.

Lipson|Neilson
COLE, SELTZER, GARIN, P.C.
Attorneys and Counselors at Law

Jeffrey J. Whitehead, Esq.
March 26, 2010
Page 2

absence of an extension of time, "the failure to object to interrogatories within the time fixed by Rule 33, FRCivP, constitutes a waiver of any objection." *Davis v. Fendler*, 650 F.2d 1154, 1160 (9th Cir.1981) See also *Godsey v. United States*, 133 F.R.D. 111 (S.D. Miss.1990); *Scott v. Arex, Inc.*, 124 F.R.D. 39, 41 (D. Conn.1989); *Fretz v. Keltner*, 109 F.R.D. 303, 309 (D. Kan.1985); *Turick v. Yamaha Motor Corp.*, 121 F.R.D. 32, 36 (S.D.N.Y. 1988).

The same holds true for the untimely response to the Requests to Produce - the failure to file timely objections constitutes a waiver of all objections. See *Perry v. Golub*, 74 F.R.D. 360 (N.D. Ala. 1976); *Davis v. Romney*, 53 F.R.D. 247 (E.D. Pa. 1971) ("If discovery rules are to have any effect or meaning, the failure to serve such objections within the time prescribed should be considered a waiver of such objections").

Given the clear authority on these issues, please provide verified, substantive responses, without objections, to Interrogatories 1, 2, 8(d), 10, 11, 12, 13, 16, 20 and Requests for Production 5, 6, 9, 18, and 28.

If these responses are not received in our office by the end of business on **March 29, 2010**, we will file a Motion to Compel which will include a request for attorneys' fees and costs associated with said motion and all attempts to meet and confer. If we are forced to file a Motion to Compel, we will continue to seek fees even if the appropriate responses are served after the filing of the Motion pursuant to FRCP 37(a)(5)(A) .

If you have any further questions, feel free to contact me. I look forward to hearing from you.

Very truly yours,

LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.



KALEB D. ANDERSON

KDA/vh/GR3384-034